

**UNITED STATES DISTRICT COURT  
OF THE SOUTHERN DISTRICT OF NEW YORK**

**IN RE: GENERAL MOTORS, LLC  
IGNITION SWITCH LITIGATION**

**MDL No. 14-MD-2543(JMF)**

This applies to:

KATHRYN COOK, individually and  
as administrator of the estate of  
CHRISTOPHER COOK, deceased

Plaintiff,

v.

Case No. 1:19-cv-06080

GENERAL MOTORS, LLC,

**UNOPPOSED MOTION TO SUBSTITUTE PROPER PARTY WITH  
MEMORANDUM OF LAW IN SUPPORT**

Julie A. Stammen, Administrator of the Estate of Christopher D. Cook and Administrator of the Estate of Kathryn L. Cook, files this Motion to Substitute Proper Party and shows the Court:

1. Pursuant to Federal Rule of Civil Procedure 25(a)(1), “If a party dies and the claim is not extinguished, the court may order substitution of the proper party.”

2. “A motion for substitution may be made by any party or by the decedent's successor or representative.” *Id.*

3. It is well-established that a decedent's legal representative may substitute as plaintiff for the decedent in a cause of action. *Sharp v. Ally Fin., Inc.*, 328 F. Supp. 3d 81, 103 (W.D.N.Y. 2018); *Roe v. City of New York*, No. 00 CIV.9062 (RWS), 2003 WL 22715832, at \*2 (S.D.N.Y. Nov. 19, 2003) (“A ‘proper party’ for substitution under Rule

25(a)(1) is ‘either (1) a successor of the deceased party—a distributee of an estate if the estate of the deceased has been distributed at the time the motion for substitution has been made, or (2) a representative of the deceased party—a person lawfully designated by state authority to represent the deceased's estate.’” (citation omitted)).

4. This Court has previously been informed of the death of Plaintiff Kathryn L. Cook, which occurred on or about June 16, 2020. (Doc. 48). At the time of the filing of this complaint, Kathryn Cook was the Administrator of the Estate of Christopher L. Cook.

5. In diversity cases, since *Erie R. Co. v. Tompkins*, 304 U.S. 64 (1938), the law of the state governs the remedies. *Cinnamon v. Abner A. Wolf, Inc.*, 215 F. Supp. 833, 834 (E.D. Mich. 1963). Ms. Kathryn Cook was a resident of Ohio at the time of her death and a resident of Ohio at the time of her motor vehicle accident, which occurred in Ohio. (Doc. 1, p. 1). Defendant General Motors, LLC is a citizen and resident of the states of Michigan and Delaware. *Id.*

6. Under Ohio, Michigan, and Delaware law, Plaintiff Kathryn Cook’s injury claim survived her death and can be maintained by her personal representative. *See* Ohio Rev. Code Ann. § 2305.21 (West); Mich. Comp. Laws Ann. § 600.2921 (West) (“All actions and claims survive death”); Mich. Comp. Laws Ann. § 600.2922 (West); Del. Code Ann. tit. 10, § 3701 (West).

7. Julie A. Stammen was appointed Administrator of the Estate of Christopher D. Cook on or about November 16, 2020. *See* Entry Appointing Fiduciary; Letters of Authority attached as Exhibit A. Julie A. Stammen was appointed Administrator of the

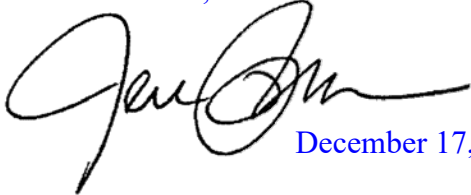
Estate of Kathryn L. Cook on or about May 10, 2021. *See* Entry Appointing Fiduciary; Letters of Authority attached as Exhibit B.

8. Thus, in accordance with Ohio and Delaware law, and pursuant to Federal Rule of Civil Procedure 25, Julie A. Stammen, as Administrator of the Estate of Christopher D. Cook and as Administrator of the Estate of Kathryn L. Cook, should be substituted as the proper party for the decedent Plaintiff in her individual and representative capacity.

9. The undersigned counsel conferred with Defendant's counsel, and Defendant is not opposed to this Motion.

WHEREFORE, Julie A. Stammen requests the Court substitute Julie A. Stammen, as Administrator of the Estate of Christopher D. Cook and Julie A. Stammen, as Administrator of the Estate of Kathryn L. Cook, for decedent Plaintiff in this case.

Application GRANTED. The Clerk of Court is directed to update the docket accordingly, and to terminate 19-CV-6080, ECF No. 49. SO ORDERED.



December 17, 2021

Respectfully submitted,

/s/ Brett A. Emison  
Brett A. Emison  
Langdon & Emison, LLC  
911 Main Street  
Lexington, MO 64067  
Ph: 660-259-6175  
Tax: 660-259-4571  
brett@lelaw.com  
*Counsel for Plaintiffs*